

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AUDRA BLANKERS and W.B.T.
ARNOLD, on behalf of themselves and others
similarly situated,

Plaintiffs,

v.

PUSHPAY USA, Inc.,

Defendant.

CASE NO. 2:21-cv-01549-JHC

ORDER RE: PLAINTIFFS' UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND
COLLECTIVE SETTLEMENT

This matter comes before the Court on Plaintiffs' Unopposed Motion for Preliminary Approval of Class and Collective Settlement. Dkt. # 3. The Court has considered the motion, the relevant portions of the record, and the applicable law. Being fully advised, the Court DENIES the motion without prejudice to the parties renewing the motion after the proposed Notice of Settlement is revised. The Court also reminds the parties that, under 28 U.S.C. § 1715, notices of class action settlements must be provided to the appropriate Federal and State officials.

As an exhibit to their motion, the parties attach a proposed Notice of Class and Collective Action Settlement ("Proposed Notice"). Dkt. # 3–3. The Proposed Notice states that individuals may opt out of the settlement by submitting a written statement to Class Counsel before the

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1 objection/exclusion deadline. *Id.* at Section 7. It also provides that, if an individual does not
2 affirmatively opt out of the settlement, they “will release Pushpay and Pushpay’s current and
3 former parent, subsidiaries, sister companies, other affiliated companies, and employees,
4 directors, and officers from all claims or causes of action relating to unpaid overtime wages and
5 missed or non-compliant rest/meal breaks under federal, Washington state, and local law” during
6 the relevant time period. *Id.* at Section 6. However, the Proposed Notice does not differentiate
7 between the “opt out” requirements of the Rule 23 state law class and the “opt in” requirements
8 of the FLSA collective, and it is unclear as to which claims are released by which actions.

9 The Court instructs the parties to submit an amended proposed Notice of Settlement. The
10 notice should explain the following:

- 11 1) If recipients do not affirmatively opt out of the settlement by submitting a written
12 statement to Class Counsel before the objection/exclusion deadline, they will be
13 deemed a part of the Rule 23 Washington state law class. They will thereby release
14 the Defendant from all claims or causes of action relating to unpaid overtime wages
15 and missed or non-compliant rest/meal breaks under Washington state law for the
16 time they worked as salaried exempt Sales Development Representatives between
17 March 1, 2018 and June 1, 2020.
- 18 2) Even if recipients do not cash their settlement checks, unless they affirmatively opt
19 out of the Settlement Class, they are releasing certain Washington state law claims
20 against the Defendant.
- 21 3) If recipients cash their settlement checks, in addition to being part of the Rule 23
22 state law class, they will be deemed a part of the FLSA collective. They will thereby
23 release the Defendant from all claims or causes of action relating to unpaid overtime

wages and missed or non-compliant rest/meal breaks under the Fair Labor Standards Act for the time they worked as salaried exempt Sales Development Representatives between March 1, 2018 and June 1, 2020.

The parties may file a renewed motion for preliminary approval of class and collective settlement after the notice is revised.

The Court further instructs the parties to file a declaration accompanying their renewed motion indicating whether they have served notice of the proposed settlement on the appropriate Federal and State officials as is required under 28 U.S.C. § 1715. The declaration should specify when they served the notices and whom they were served upon, or indicate why the notices could not or need not be served.

Dated this 26th day of May, 2022,



John H. Chun
United States District Judge